

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

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|---------------------|---|----------------------|
| VICTOR RAY JOHNSON, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| -vs- |) | Case No. CIV-11-1370 |
| |) | |
| JUSTIN JONES, |) | |
| |) | |
| Defendant. |) | |

ORDER


On December 20, 2011, United States Magistrate Judge Doyle W. Argo issued a Report and Recommendation, wherein he recommended that petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 be dismissed upon filing as untimely.

Presently before the court is the timely objection of petitioner to the recommended ruling of Magistrate Judge Argo. In accordance with 28 U.S.C. § 636(b)(1), the court has conducted a *de novo* review of the matter. Having done so, the court concurs with the analysis of Magistrate Judge Argo. The court finds petitioner's objection to be without merit. The court concludes that the § 2254 petition is untimely, and statutory and equitable tolling does not apply. Consequently, the court accepts, adopts, and affirms the Report and Recommendation in its entirety.

Accordingly, the Report and Recommendation issued by United States Magistrate Judge Doyle W. Argo on December 20, 2011 (doc. no. 5) is **ACCEPTED**, **ADOPTED**, and **AFFIRMED**. The petition under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody (doc. no. 1) filed by petitioner, Victor

Ray Johnson, on November 17, 2011, is **DISMISSED** upon filing as untimely under 28 U.S.C. § 2244(d)(1).

Dated January 24, 2012.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

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